

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) Criminal Action No.
) 08-00321-03-CR-W-GAF
DEONDRE CORDELL HIGGINS,)
)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on June 30, 2010. Defendant Higgins appeared in person and with appointed counsel Alex McCauley. The United States of America appeared by Assistant United States Attorney Bruce Rhoades.

I. BACKGROUND

On November 20, 2008, an indictment was returned charging Defendant with: one count of conspiracy to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846; one count of possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 18 U.S.C. § 2; and one count of distribution of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Rhoades announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Detective Jason Decker, Kansas City, Missouri Police Department.

Mr. McCauley announced that he will be the trial counsel for Defendant Higgins.

III. *OUTSTANDING MOTIONS*

The following motions are pending in this case:

- Defendant's First Motion in Limine (Doc. No. 129), filed 06/24/10;
- Defendant's Second Motion in Limine (Doc. No. 130), filed 06/24/10.

IV. *TRIAL WITNESSES*

Mr. Rhoades announced that the government intends to call 12 witnesses without stipulations or 8 witnesses with stipulations during the trial.

Mr. McCauley announced that Defendant Higgins does not intend to call any witnesses during the trial, other than the government's witnesses. Defendant may testify.

V. *TRIAL EXHIBITS*

Mr. Rhoades announced that the government will offer approximately 21-25 exhibits in evidence during the trial.

Mr. McCauley announced that Defendant Higgins will not offer any exhibits in evidence during the trial.

VI. *DEFENSES*

Mr. McCauley announced that Defendant Higgins will rely on the defense of general denial.

VII. *POSSIBLE DISPOSITION*

Mr. McCauley stated this case is definitely for trial.

VIII. *STIPULATIONS*

Stipulations are not likely.

IX. *TRIAL TIME*

Counsel were in agreement that this case will take 3 days to try.

X. *EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS*

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed April 6, 2009, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by June 30, 2010;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, July 7, 2010;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, July 7, 2010. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. *UNUSUAL QUESTIONS OF LAW*

No additional motions in limine are anticipated. There may be an issue as to the "fruits" of suppressed evidence.

XII. *TRIAL SETTING*

All counsel and Defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on July 12, 2010. The parties ask for the second week of the docket.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by July 9, 2010. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

/s/ Robert E. Larsen

ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
June 30, 2010

cc: Mr. Kevin Lyon